

One Hundred Fourteenth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday,
the fourth day of January, two thousand and sixteen*

An Act

To amend chapter 97 of title 28, United States Code, to clarify the exception to foreign sovereign immunity set forth in section 1605(a)(3) of such title.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Foreign Cultural Exchange Jurisdictional Immunity Clarification Act”.

SEC. 2. CLARIFICATION OF JURISDICTIONAL IMMUNITY OF FOREIGN STATES.

(a) IN GENERAL.—Section 1605 of title 28, United States Code, is amended by adding at the end the following:

“(h) JURISDICTIONAL IMMUNITY FOR CERTAIN ART EXHIBITION ACTIVITIES.—

“(1) IN GENERAL.—If—

“(A) a work is imported into the United States from any foreign state pursuant to an agreement that provides for the temporary exhibition or display of such work entered into between a foreign state that is the owner or custodian of such work and the United States or one or more cultural or educational institutions within the United States;

“(B) the President, or the President’s designee, has determined, in accordance with subsection (a) of Public Law 89–259 (22 U.S.C. 2459(a)), that such work is of cultural significance and the temporary exhibition or display of such work is in the national interest; and

“(C) the notice thereof has been published in accordance with subsection (a) of Public Law 89–259 (22 U.S.C. 2459(a)),

any activity in the United States of such foreign state, or of any carrier, that is associated with the temporary exhibition or display of such work shall not be considered to be commercial activity by such foreign state for purposes of subsection (a)(3).

“(2) EXCEPTIONS.—

“(A) NAZI-ERA CLAIMS.—Paragraph (1) shall not apply in any case asserting jurisdiction under subsection (a)(3) in which rights in property taken in violation of international law are in issue within the meaning of that subsection and—

“(i) the property at issue is the work described in paragraph (1);

“(ii) the action is based upon a claim that such work was taken in connection with the acts of a covered government during the covered period;

“(iii) the court determines that the activity associated with the exhibition or display is commercial activity, as that term is defined in section 1603(d); and

“(iv) a determination under clause (iii) is necessary for the court to exercise jurisdiction over the foreign state under subsection (a)(3).

“(B) OTHER CULTURALLY SIGNIFICANT WORKS.—In addition to cases exempted under subparagraph (A), paragraph (1) shall not apply in any case asserting jurisdiction under subsection (a)(3) in which rights in property taken in violation of international law are in issue within the meaning of that subsection and—

“(i) the property at issue is the work described in paragraph (1);

“(ii) the action is based upon a claim that such work was taken in connection with the acts of a foreign government as part of a systematic campaign of coercive confiscation or misappropriation of works from members of a targeted and vulnerable group;

“(iii) the taking occurred after 1900;

“(iv) the court determines that the activity associated with the exhibition or display is commercial activity, as that term is defined in section 1603(d); and

“(v) a determination under clause (iv) is necessary for the court to exercise jurisdiction over the foreign state under subsection (a)(3).

“(3) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘work’ means a work of art or other object of cultural significance;

“(B) the term ‘covered government’ means—

“(i) the Government of Germany during the covered period;

“(ii) any government in any area in Europe that was occupied by the military forces of the Government of Germany during the covered period;

“(iii) any government in Europe that was established with the assistance or cooperation of the Government of Germany during the covered period; and

“(iv) any government in Europe that was an ally of the Government of Germany during the covered period; and

“(C) the term ‘covered period’ means the period beginning on January 30, 1933, and ending on May 8, 1945.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any civil action commenced on or after the date of the enactment of this Act.

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SEC. 3. NOTIFICATION.

The Secretary of State shall ensure that foreign states that apply for immunity under Public Law 89–259 (22 U.S.C. 2459) are appropriately notified of the text of this Act.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*